



February 4, 2009

SENATE BILL No. 459

DIGEST OF SB 459 (Updated February 3, 2009 11:20 am - DI 71)

Citations Affected: IC 6-3.5; IC 6-6; IC 9-16.

Synopsis: Bureau of motor vehicles services. Deletes the requirement that certain specified provisions be included in a contract between a partial services provider and the bureau of motor vehicles (bureau). Makes it a Class B misdemeanor for an employee of a service provider of the bureau to recklessly issue a registration on any vehicle without collecting the license excise tax required to be collected with the registration. Makes it a Class B misdemeanor for an employee of a service provider of the bureau to recklessly, knowingly, or intentionally fail to deposit license excise taxes required to be deposited. Makes conforming amendments and technical corrections.

Effective: July 1, 2009.

Merritt

January 14, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.
February 3, 2009, reported favorably — Do Pass.

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SB 459—LS 7330/DI 96+



February 4, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 459

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.5-4-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this
3 chapter:
4 "Branch office" means:
5 (1) a branch office of the bureau of motor vehicles **operated**
6 **under IC 9-16; or**
7 (2) **a qualified person (as defined in IC 9-16-1-1) that operates**
8 **a full service license branch or is a partial services provider**
9 **under IC 9-16.**
10 "County council" includes the city-county council of a county that
11 contains a consolidated city of the first class.
12 "Motor vehicle" means a vehicle which is subject to the annual
13 license excise tax imposed under IC 6-6-5.
14 "Net annual license excise tax" means the tax due under IC 6-6-5
15 after the application of the adjustments and credits provided by that
16 chapter.
17 "Surtax" means the annual license excise surtax imposed by a

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1 county council under this chapter.

2 SECTION 2. IC 6-3.5-5-1, AS AMENDED BY P.L.211-2007,
3 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 1. As used in this chapter:

5 "Branch office" means:

6 (1) a branch office of the bureau of motor vehicles **operated**
7 **under IC 9-16; or**

8 (2) **a qualified person (as defined in IC 9-16-1-1) that operates**
9 **a full service license branch or is a partial services provider**
10 **under IC 9-16.**

11 "Bus" has the meaning set forth in IC 9-13-2-17(a).

12 "Commercial motor vehicle" has the meaning set forth in
13 IC 6-6-5.5-1(c).

14 "County council" includes the city-county council of a county that
15 contains a consolidated city of the first class.

16 "In-state miles" has the meaning set forth in IC 6-6-5.5-1(i).

17 "Political subdivision" has the meaning set forth in IC 34-6-2-110.

18 "Recreational vehicle" has the meaning set forth in IC 9-13-2-150.

19 "Semitrailer" has the meaning set forth in IC 9-13-2-164(a).

20 "State agency" has the meaning set forth in IC 34-6-2-141.

21 "Tractor" has the meaning set forth in IC 9-13-2-180.

22 "Trailer" has the meaning set forth in IC 9-13-2-184(a).

23 "Truck" has the meaning set forth in IC 9-13-2-188(a).

24 "Wheel tax" means the tax imposed under this chapter.

25 SECTION 3. IC 6-6-5-1, AS AMENDED BY P.L.2-2007,
26 SECTION 126, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter,
28 "vehicle" means a vehicle subject to annual registration as a condition
29 of its operation on the public highways pursuant to the motor vehicle
30 registration laws of the state.

31 (b) As used in this chapter, "mobile home" means a
32 nonself-propelled vehicle designed for occupancy as a dwelling or
33 sleeping place.

34 (c) As used in this chapter, "bureau" means the bureau of motor
35 vehicles.

36 (d) As used in this chapter, "license branch" means a branch office
37 of the bureau authorized to register motor vehicles pursuant to the laws
38 of the state.

39 (e) As used in this chapter, "owner" means the person in whose
40 name the vehicle or trailer is registered (as defined in IC 9-13-2).

41 (f) As used in this chapter, "motor home" means a self-propelled
42 vehicle having been designed and built as an integral part thereof

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having living and sleeping quarters, including that which is commonly referred to as a recreational vehicle.

(g) As used in this chapter, "last preceding annual excise tax liability" means either:

(1) the amount of excise tax liability to which the vehicle was subject on the owner's last preceding regular annual registration date; or

(2) the amount of excise tax liability to which a vehicle that was registered after the owner's last preceding annual registration date would have been subject if it had been registered on that date.

(h) As used in this chapter, "trailer" means a device having a gross vehicle weight equal to or less than three thousand (3,000) pounds that is pulled behind a vehicle and that is subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the state. The term includes any utility, boat, or other two (2) wheeled trailer.

(i) This chapter does not apply to the following:

(1) Vehicles owned, or leased and operated, by the United States, the state, or political subdivisions of the state.

(2) Mobile homes and motor homes.

(3) Vehicles assessed under IC 6-1.1-8.

(4) Vehicles subject to registration as trucks under the motor vehicle registration laws of the state, except trucks having a declared gross weight not exceeding eleven thousand (11,000) pounds, trailers, semitrailers, tractors, and buses.

(5) Vehicles owned, or leased and operated, by a postsecondary educational institution described in IC 6-3-3-5(d).

(6) Vehicles owned, or leased and operated, by a volunteer fire department (as defined in IC 36-8-12-2).

(7) Vehicles owned, or leased and operated, by a volunteer emergency ambulance service that:

(A) meets the requirements of IC 16-31; and

(B) has only members that serve for no compensation or a nominal annual compensation of not more than three thousand five hundred dollars (\$3,500).

(8) Vehicles that are exempt from the payment of registration fees under IC 9-18-3-1.

(9) Farm wagons.

(j) As used in this chapter, "service provider" means:

(1) a license branch; or

(2) a qualified person (as defined in IC 9-16-1-1) that operates a full service license branch or is a partial services provider

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under IC 9-16.

SECTION 4. IC 6-6-5-9, AS AMENDED BY P.L.131-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The bureau, in the administration and collection of the annual license excise tax imposed by this chapter, may utilize the services and facilities of ~~license branches operated under IC 9-16~~ **service providers** in its administration of the motor vehicle registration laws of the state of Indiana. The ~~license branches~~ **service providers under this subsection** may be so utilized in accordance with such procedures, in such manner, and to such extent as the bureau shall deem necessary and proper to implement and effectuate the administration and collection of the excise tax imposed by this chapter. However, in the event the bureau shall utilize ~~such license branches~~ **the service providers** in the collection of excise tax, the following apply:

(1) The excise taxes so collected by each ~~license branch~~ **service provider**, less any refunds made by the ~~license branch~~ **service provider**, shall be deposited daily by the ~~license branch~~ **service provider** in a depository duly designated by the state board of finance. The county treasurer of the county for which the collections are due may withdraw funds from the account at least two (2) times each week. The county treasurer is responsible for the safekeeping and investment of money withdrawn by the county treasurer under this subsection. Before the eleventh day of the month following the month in which the collections are made, the bureau ~~of motor vehicles~~ shall report the excise taxes collected and refunds made outside the county to the county treasurer of the county to which the collections are due and the refunds apply. The bureau shall forward a copy of this excise tax report to the county auditor of the county.

(2) A ~~license branch~~ **service provider** shall each week forward a report to the county auditor of the county to whom the collections are due, showing the excise tax collected on each vehicle, each refund on a vehicle, and a copy of each registration certificate for all collections and refunds within the county.

(3) Each ~~license branch~~ **service provider** shall also report to the bureau all excise taxes collected and refunds made under this chapter in the same manner and at the same time as registration fees are reported.

(4) Premiums for insurance to protect the funds collected by ~~license branches~~ **service providers** against theft shall be paid by the bureau, except that the bureau may issue blanket coverage for all ~~branches~~ **service providers** at its discretion. At the discretion

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of the bureau, the bureau may:

(A) self-insure to cover the activities of the ~~license branches;~~
service providers; or

(B) rather than purchase a bond or crime policy for each
~~branch,~~ **service provider,** purchase a single blanket bond or
crime insurance policy endorsed to include faithful
performance to cover all ~~branches.~~ **service providers.**

(5) If the services of a ~~license branch~~ **service provider** are used
by the bureau in the collection of the excise tax imposed by this
chapter, the ~~license branch~~ **service provider** shall collect the
service charge prescribed under IC 9-29 for each vehicle
registered upon which an excise tax is collected by that ~~branch.~~
service provider.

(6) If the excise tax imposed by this chapter is collected by the
department of state revenue, the money collected shall be
deposited in the state general fund to the credit of the appropriate
county and reported to the bureau ~~of motor vehicles~~ on the first
working day following the week of collection. Except as provided
in subdivision (7), any amount collected by the department which
represents interest or a penalty shall be retained by the department
and used to pay its costs of enforcing this chapter.

(7) This subdivision applies only to interest or a penalty collected
by the department of state revenue from a person who:

(A) fails to properly register a vehicle as required by IC 9-18
and pay the tax due under this chapter; and

(B) during any time after the date by which the vehicle was
required to be registered under IC 9-18 displays on the vehicle
a license plate issued by another state.

The total amount collected by the department that represents
interest or a penalty, minus a reasonable amount determined by
the department to represent its administrative expenses, shall be
deposited in the state general fund for the credit of the county in
which the person resides. The amount shall be reported to the
bureau ~~of motor vehicles~~ on the first working day following the
week of collection.

The bureau may contract with a bank card or credit card vendor for
acceptance of bank or credit cards.

(b) On or before April 1 of each year the bureau shall provide to the
auditor of state the amount of motor vehicle excise taxes collected for
each county for the preceding year.

(c) On or before May 10 and November 10 of each year the auditor
of state shall distribute to each county one-half (1/2) of:

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(1) the amount of delinquent taxes; and
 (2) any penalty or interest described in subsection (a)(7);
 that have been credited to the county under subsection (a). There is appropriated from the state general fund the amount necessary to make the distributions required by this subsection. The county auditor shall apportion and distribute the delinquent tax distributions to the taxing units in the county at the same time and in the same manner as excise taxes are apportioned and distributed under section 10 of this chapter.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

SECTION 5. IC 6-6-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** An owner of a vehicle who knowingly registers the vehicle without paying the excise tax required by this chapter commits a Class B misdemeanor.

(b) An employee of the bureau or a branch manager or ~~an~~ employee of a ~~license branch office~~ **service provider** who recklessly issues a registration on any vehicle without collecting excise tax required to be collected with the registration commits a Class B misdemeanor.

(c) ~~An employee of a service provider who recklessly, knowingly, or intentionally fails to deposit excise tax required to be deposited under this chapter~~ **commits a Class B misdemeanor.**

SECTION 6. IC 9-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "qualified person" means any of the following:

(1) A motor club that is any of the following:

(A) A domestic corporation.

(B) A foreign corporation qualified to transact business in Indiana under IC 23-1 or IC 23-17.

(2) A financial institution (as defined in IC 28-1-1-3).

(3) A ~~new~~ motor vehicle dealer licensed under IC 9-23-2.

(4) Other persons, including persons licensed under IC 9-23-2 that are not covered by subdivision (3), that the commission determines can meet the standards adopted by the commission under IC 9-15-2-1(7) and the requirements for partial service contractors under section 4.5 of this chapter.

SECTION 7. IC 9-16-1-4.5, AS AMENDED BY P.L.210-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. ~~(a)~~ The commission may contract with a qualified person to provide partial services at a qualified person's location, including locations within a facility used for other purposes. ~~such as electronic titling and title application services and self-serve terminal access.~~

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- 1 (b) A contract for providing motor vehicle registration and renewal
2 services at a location must include the following provisions:
3 (1) The contractor must provide trained personnel to properly
4 process motor vehicle registration and renewal transactions:
5 (2) The contractor shall do the following:
6 (A) Collect and transmit all bureau fees and taxes collected at
7 the contract location:
8 (B) Deposit the taxes collected at the contract location with the
9 county treasurer in the manner prescribed by IC 6-3.5 or
10 IC 6-6-5.
11 (3) The contractor shall provide fidelity bond coverage in an
12 amount prescribed by the commission:
13 (4) The contractor shall pay the cost of any post audits conducted
14 by the commission or the state board of accounts on an actual cost
15 basis:
16 (5) The commission must approve each location and physical
17 facility used by a contractor:
18 (6) The term of the contract must be for a fixed period:

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 459, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 459 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 10, Nays 0.

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